

From: ErrorTracker
Sent: Wed 2/12/2003 9:12 AM
To: GARY.WEINREICH@BMWMC.COM; ErrorTracker
Cc:
Subject: ACKNOWLEDGEMENT OF REQUEST FOR CORRECTION: FOR RFC #7421

Thank you for your request for correction under the Environmental Protection Agency's Information Quality Guidelines dated 02/07/2003. Your request was received in this office on 02/11/2003 and has been forwarded to the appropriate organization within the Agency.

REPORTED REQUEST FOR RFC #: 7421

Request for Correction: THE EPA ENFORCEMENT COMPLIANCE HISTORY ONLINE (ECHO) DATABASE, THE SECTOR FACILITY INDEXING PROJECT (SFIP) DATABASE AND OTHER EPA COMPLIANCE DATABASES CURRENTLY CONTAIN COMPLIANCE DATA SHOWING BMW MANUFACTURING CORP. (BMW) AS BEING IN SIGNIFICANT NON-COMPLIANCE (SNC) OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA). FOR ECHO DATABASE:

HTTP://WWW.EPA.GOV/CGI-BIN/GET1CREPORT.CGI?TOOL=ECHO&IDNUMBER=SC0000110288 FOR SFIP DATABASE:

HTTP://WWW.EPA.GOV/CGI-BIN/GETSFILC.CGI?IDNUMBER=AUT.SC0053&TOOL=SFI THE INFORMATION POSTED ON THESE WEBSITES IS INCORRECT AND FAILS TO MEET EPA AND OMB INFORMATION QUALITY GUIDELINES IN ALL FOUR CRITERIA: ACCURACY, INTEGRITY, UTILITY AND REPRODUCIBILITY. (SUBMITTED IN HARDCOPY BY MR. WEINREICH. FAX RECEIVED BY EPA ON 02/11/2003; FEDEX PACKAGE SENT ON 02/07/2003 TO BE RECEIVED BY EPA ON 02/10/2003)

Compliance with IQGs: EPA STAFFS, AT BOTH THE REGIONAL AND NATIONAL LEVELS, HAVE CONFIRMED THAT THE DISPUTE INVOLVES NO ENVIRONMENTAL PERFORMANCE CONSEQUENCES. GIVEN THE FACT THAT THERE ARE 1) NO ENVIRONMENTAL CONSEQUENCES, 2) THE AUTHORIZED STATE AGENCY EVALUATED COMPLIANCE STATUS IN GREAT DETAIL, AND 3) THE STATE AGENCY ISSUED A FULLY DOCUMENTED REGULATORY DETERMINATION OF COMPLIANCE, THE DATA POSTED IN THE EPA DATABASES CLEARLY FAILS TO MEET THE ACCURACY CRITERIA ESTABLISHED BY EPA AND OMB. ...[THE] COMPLIANCE DATABASE IS BEING USED TO FORCE INDIVIDUAL COMPANIES TO ACCEPT EPA'S POSITION AND SIGN THE SETTLEMENT AGREEMENT BASED ON A FOUNDATION THAT STATES AND INDUSTRY CONTEND IS ILLEGAL. USING THE ECHO COMPLIANCE DATABASE AS LEVERAGE TO FORCE SIGNING A SETTLEMENT AGREEMENT CLEARLY VIOLATES THE DATA INTEGRITY STANDARDS OF OMB AND EPA IN THAT THE DATABASE IS NOT PRESENTING FACTS, BUT TRYING TO BOLSTER ITS POSITION IN A DISPUTE. BMW'S SITUATION MEETS NONE OF THESE SNC CRITERIA. IN SHORT, UTILITY OF THE DATABASE IS SERIOUSLY DETERIORATED WHEN IT BECOMES IMPOSSIBLE TO DETERMINE WHICH REGULATED ENTITIES ARE IN COMPLIANCE AND WHICH ARE NOT. THIS HAS BEEN A FREQUENT COMMENT RECEIVED BY EPA DURING THE COMMENT PERIOD ON THE ECHO DATABASE. OMB'S CRITERIA FOR DATA REPRODUCIBILITY ARE CLEARLY NOT MET. THE FACT THAT EPA'S COMPLIANCE DETERMINATION (MADE ON THE BASES OF THE GUIDANCE DOCUMENT) IS COMPLETELY OPPOSITE THE AUTHORIZED STATE AGENCY'S DETERMINATION (BASED ON A DETAILED SITE-SPECIFIC DETERMINATION USING WELL-ESTABLISHED HAZARDOUS WASTE RULEMAKING) IS AMPLE EVIDENCE THAT THE DATA IS NOT REPRODUCIBLE. THE MAJORITY OF THE AUTHORIZED STATES WITH AUTOMOBILE ASSEMBLY PLANTS HAVE EXPRESSED DISAGREEMENT WITH EPA'S POSITION ON THIS AS WELL.

Recommendation: BMW REQUESTS THAT ALL REFERENCES TO NON-COMPLIANCE AND SIGNIFICANT NON-COMPLIANCE BE DELETED FROM THE EPA'S DATABASES.

Impact: EPA'S COMPLIANCE INFORMATION DATABASES SHOULD NOT BE USED AS TOOLS TO COERCE COMPLIANT COMPANIES OR THEIR AUTHORIZED STATE AGENCIES INTO TAKING ACTIONS OR REACHING DETERMINATIONS THAT ARE QUESTIONABLE OR SUSPECT. FURTHERMORE, INTENTIONALLY LISTING COMPANIES IN NON-COMPLIANCE OR SIGNIFICANT NON-COMPLIANCE FOR THE PURPOSE OF

STRENGTHENING THE AGENCY'S POSITION IN LITIGATION ARE CLEAR VIOLATIONS OF DATA QUALITY GUIDELINES.

RFC # 7421 WAS SUBMITTED BY: GARY WEINREICH, PHONE: 8649895764 ,
EMAIL: GARY.WEINREICH@BMWMC.COM, ADDRESS: PO BOX 11000, SPARTANBURG, SC 29304-4100, FAX: 8648015764, ORGANIZATION: BMW MANUFACTURING CORP.,
AFFILIATION: NOT GIVEN

The Environmental Protection Agency's goal is to respond to requests within 90 days of receipt. In the meantime, if you have any questions regarding the Information on Quality Guidelines or the Request for Correction process, please visit the EPA Information Quality Guidelines site (www.epa.gov/oei/qualityguidelines/index.html) or send a letter or fax or e-mail to our office at the address noted below. Please include the Request Number stated in the reference line of this letter in all correspondences.

Sincerely,

EPA Information Quality Guidelines Processing Staff
E-mail: quality.guidelines@epa.gov
Mail: Information Quality Guidelines Staff (MC 28221T)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460-0001
Fax: (202) 566-0255